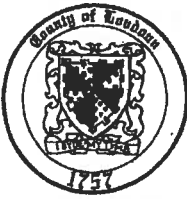


# Tab 2





Loudoun County, Virginia

[www.loudoun.gov](http://www.loudoun.gov)

Office of the County Administrator

1 Harrison Street, S.E., 5th Floor, P.O. Box 7000, Leesburg, VA 20177-7000

Telephone (703) 777-0200 • Fax (703) 777-0325

At a business meeting of the Board of Supervisors of Loudoun County, Virginia, held in the County Government Center, Board of Supervisors' Meeting Room, 1 Harrison St., S.E., Leesburg, Virginia, on Tuesday, June 21, 2005 at 9:30 a.m.

PRESENT: Scott K. York, Chairman  
Bruce E. Tulloch, Vice Chairman  
James G. Burton  
James E. Clem  
Eugene A. Delgaudio  
Sally Kurtz  
Stephen J. Snow  
Mick Staton Jr.  
Lori L. Waters

IN RE: TRANSPORTATION/LAND USE COMMITTEE REPORT / ZMAP 2003-0012,  
BRADDOCK CROSSING

Mr. Snow moved that the Board of Supervisors approve ZMAP 2003-0012, Braddock Crossing with the modifications requested at the Board public hearing, based on the attached findings and subject to the proffers dated May 5, 2005 and the Letter of Clarification dated June 14, 2005.

Seconded by Mr. Staton.

Voting on the Motion: Supervisors Clem, Delgaudio, Kurtz, Snow, Staton, Tulloch, and Waters - Yes; Supervisors Burton and York - No.

COPY TESTE:

DEPUTY CLERK FOR THE LOUDOUN  
COUNTY BOARD OF SUPERVISORS

### **Findings**

1. The application complies with the Revised General Plan because the Plan identifies the boundary between Suburban and Transition policy areas as following the Route 659 Relocated alignment through this area.
2. The application complies with the Countywide Transportation Plan. The road realignment is an acceptable shift and avoids sensitive environmental resources.
3. The application adequately mitigates capital facilities impacts.
4. The application adequately mitigates transportation impacts.
5. The application provides an appropriate level of recreational amenities and civic space on-site and in conjunction with adjacent development.

The proposed density and use is compatible with surrounding development.

June 14, 2005

**HAND DELIVERED**

Scott K. York, Chairman  
Loudoun County Board of Supervisors  
1 Harrison Street, Fifth Floor  
Leesburg, Virginia 20176

**RE: Braddock Crossing (ZMAP 2003-0012)**

Dear Chairman York:

This letter is submitted as clarification of the Braddock Crossing Proffer Statement, dated May 5, 2005 (the "Proffer Statement"). Unless clarified below, all other provisions in the Proffer Statement remain unchanged and in full force and effect.

For the purposes of this Letter of Clarification, the term "Owner" refers to Nicholas/Farkas Joint Venture the undersigned current property owner, as well as their successors and assigns. The Owner hereby clarifies and amends the Proffer Statement as follows:

1. **Preamble.** The Preamble, Line 8 is hereby clarified and amended by deleting "July 1, 2003" and inserting "July 2003" in its place. Line 9 is hereby clarified and amended by deleting "April 21, 2005" and inserting "June 10, 2005" in its place.
2. **Substantial Conformity.** Proffer I.A. is hereby clarified and amended by deleting the existing language of Proffer I.A. and insertion of the following in its place:
  - A. **Substantial Conformity.** The Property shall be developed in substantial conformity with Braddock Crossing Rezoning Concept Development Plan Set ("Concept Plan"), prepared by Urban Engineering & Associates, dated July 2003, as revised through June 10, 2005, Sheets 1-10 attached hereto as Exhibit A and Zoning Ordinance Modifications for Braddock Crossing dated April 19, 2005 attached hereto as Exhibit B. The Property shall be developed with no more than 192 residential units, including 12.5% Affordable Dwelling Units (ADUs) in the following manner:
    - ☐ Maximum 58 single-family detached units.
    - ☐ Maximum 134 single-family attached units. 12.5% of the total number of units constructed on the Property shall be ADU's and shall be dispersed among the single family attached units. All single family attached units shall be developed pursuant to the subdivision process.

The Property shall also include Open Space areas, in the locations as generally shown and described on Sheet 6 of the Concept Plan. Required Active Recreation areas shall be provided in the locations as generally shown and described on Sheet 6 and Sheets 9-10 of the Concept Plan.

3. **Capital Facilities Contribution.** Proffer IV. A. is hereby clarified and amended by deleting the existing language of Proffer IV. A., Capital Facilities Contributions and insertion of the following in its place:
  - A. **Capital Facilities Contribution.** The Owner shall pay to the County a Capital Facility Contribution, in the amount of Thirteen Thousand Three Hundred Twenty and 66/100 Dollars (\$13,320.66) for each residential unit constructed on the Property (the "Capital Facilities Contribution"). The Capital Facilities Contribution shall be paid prior to issuance of the zoning permit for each residential unit. The amount of the Capital Facilities Contribution shall escalate in accordance with the Consumer Price Index from the base year of 2005.
4. **Pedestrian Circulation, Recreation and Open Space Preservation.** Proffer IV. B. is hereby clarified and amended by deleting the existing language of Proffer IV. B. 3., Active Recreation and insertion of the following in its place:
  3. **Active Recreation.** The Owner shall construct active recreation uses in substantial conformance to Sheets 9-10 of the Concept Plan. The Owner shall convey the parcels containing the "Central Community Meeting Area and Recreational Field" (Sheet 10) and "East Community Meeting Area and Tot Lot" (Sheet 10) to the Homeowners' Association ("HOA") described in Proffer VI. below. The active recreation construction and parcel conveyance shall be completed prior to the issuance of the 59<sup>th</sup> residential zoning permit for the Property.

The Owner shall also construct an active recreation area with parking on the western side of Route 659 Relocated, as shown on the Concept Plan and described as "Recreation Field and Sports Court Area" (Sheet 9). The parcel shall be conveyed to the County, if acceptable to the County, and may be combined with adjacent properties to form a larger recreation area if they develop as recreation uses in the future. Alternatively, the parcel shall be conveyed to the HOA in the event the County declines acceptance of the active recreation area. The active recreation construction and parcel conveyance shall be completed prior to the issuance of the 100<sup>th</sup> residential zoning permit for the Property.

**Scott K. York, Chairman**  
**Loudoun County Board of Supervisors**  
**Re: Braddock Crossing, ZMAP 2003-0012**  
**June 14, 2005**

---

The Owner warrants that it owns all interest in the Property, as defined in the Proffer Statement, that it has full authority to bind the Property to these conditions, that no signature from any third party is necessary for these conditions to be binding and enforceable in accordance with their terms, that the undersigned is fully authorized to sign the letter of clarification on behalf of the Owner, and that the conditions contained in the letter of clarification are entered into voluntarily.

**[SIGNATURES ON THE FOLLOWING PAGE]**

Scott K. York, Chairman  
Loudoun County Board of Supervisors  
Re: Braddock Crossing, ZMAP 2003-0012  
June 14, 2005

---

NICHOLAS/FARKAS JOINT VENTURE

By: Bernard Farkas  
Name: BERNARD FARKAS  
Title: PRESIDENT BRF Corporation  
General Partner

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Fairfax, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction, personally appeared Bernard Farkas, who acknowledged that he executed the foregoing Proffers with the full power and authority to do so.

IN WITNESS WHEREOF, I have affixed my hand and seal this 17th day of June, 2005.

Lynn P. Forkell  
Notary Public AKA Lynn P. Forkell

My Commission Expires: 1/31/06



Scott K. York, Chairman  
Loudoun County Board of Supervisors  
Re: Braddock Crossing, ZMAP 2003-0012  
June 14, 2005

NICHOLAS/FARKAS JOINT VENTURE

By: [Signature]

Name: John J. Nicholas Jr.

Title: Managing Member JMA LLC

General PTr of John & Mary Ellen Nicholas Realty Ltd

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Fairfax, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction, personally appeared John J. Nicholas Jr., who acknowledged that he executed the foregoing Proffers with the full power and authority to do so.

IN WITNESS WHEREOF, I have affixed my hand and seal this 17th day of June, 2005.

[Signature]  
Notary Public AKA Lynn P. Forkell

My Commission Expires: 1/31/06

**Braddock Crossing**  
***(ZMAP 2003-0012)***

**PROFFER STATEMENT**

*June 14, 2004*  
*August 19, 2004*  
*September 7, 2004*  
*November 29, 2004*  
*March 28, 2005*  
*April 19, 2005*  
*May 5, 2005*

**Braddock Crossing**  
**(ZMAP 2 03-0012)**  
**PROFFER STATEMENT**  
**~ TABLE OF CONTENTS ~**

|   | <i>Page</i> |
|---|-------------|
| PREAMBLE.....   | 1           |
| I. CONCEPT PLAN .....   | 1           |
| A. Substantial Conformity.....  | 1           |
| B. Garage Parking Restrictions.....                                     | 2           |
| II. PUBLIC WATER AND SANITARY SEWER .....                               | 2           |
| III. TRANSPORTATION .....   | 2           |
| A. Road Network.....  | 2           |
| B. Construction of Transportation Improvements .....                    | 3           |
| C. Cash Equivalent Contribution .....                                   | 4           |
| D. Tri-County Parkway .....   | 4           |
| IV. CAPITAL FACILITIES/RECREATION AND OPEN SPACE/TREE PRESERVATION .... | 5           |
| A. Capital Facilities Contributions .....                               | 5           |
| B. Pedestrian Circulation, Recreation and Open Space Preservation ..... | 5           |
| 1. Pedestrian Circulation.....  | 5           |
| 2. Trails .....   | 5           |
| 3. Active Recreation.....   | 5           |
| 4. HOA Open Space And Trails.....                                       | 6           |
| 5. Open Space Preservation .....  | 6           |
| V. EMERGENCY SERVICES.....  | 6           |
| A. Owners Contribution .....  | 6           |
| B. Sprinkler Systems.....   | 7           |
| VI. HOMEOWNERS' ASSOCIATION.....  | 7           |
| VII. EXISTING WELLS AND DRAINFIELDS .....                               | 7           |
| VIII. BINDING EFFECTS.....  | 8           |

**Exhibits**

**Exhibit A:**                   Braddock Crossing Rezoning Concept Development Plan, prepared by Urban Engineering & Associates, Inc., dated July 1, 2003, as revised through April 21, 2005

**Exhibit B:**                   Zoning Ordinance Modifications for Braddock Crossing, dated April 19, 2005

# **Braddock Crossing**

(ZMAP 2003-0012)

## **PROFFER STATEMENT**

**May 5, 2005**

### **PREAMBLE**

Pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended, and Section 6-1209 of the Revised 1993 Loudoun County Zoning Ordinance, as amended, Nicholas/Farkas Joint Venture (the "Owner") of Parcel 35 on Loudoun County Tax Map 100 (MCPI #248-18-9478) consisting of approximately 59.31 acres of real property (the "Property") which is the subject of rezoning application ZMAP 2003-0012, hereby voluntarily proffers that development of the Property shall be in substantial conformity with the proffers as set forth below (the "Proffers") and with the Braddock Crossing Rezoning Concept Development Plan ("Concept Plan"), prepared by Urban Engineering & Associates, Inc., dated July 1, 2003, as revised through April 21, 2005, Sheets 1 through 8 attached hereto as Exhibit A and Zoning Ordinance Modifications for Braddock Crossing dated April 19, 2005 attached hereto as Exhibit B. All Proffers made herein are contingent upon the approval by the Loudoun County Board of Supervisors (the "Board") of the change in the zoning district requested in rezoning application ZMAP 2003-0012 from the R-1 and TR1-UBF zoning district to the PD-H4 zoning district, administered under the R-8 zoning district, and related requested zoning ordinance modifications attached to these Proffers.

### **I. CONCEPT PLAN**

**A. Substantial Conformity** The Property shall be developed in substantial conformity with the Braddock Crossing Rezoning Concept Development Plan ("Concept Plan"), prepared by Urban Engineering & Associates, Inc., dated July 1, 2003, as revised through April 21, 2005, Sheets 1 through 8 attached hereto as Exhibit A and Zoning Ordinance Modifications for Braddock Crossing dated April 19, 2005 attached hereto as Exhibit B. The Property shall be developed with no more than 200 residential units, including 12.5% affordable dwelling units (ADUs) in the following manner:

- Maximum 58 single family detached units
- Maximum 142 single family attached units. 12.5% of the total number of units constructed on the Property shall be ADU's and shall be dispersed among the single family attached units. All single family attached units shall be developed pursuant to the subdivision process.

May 5, 2005

Page 2

The Property shall also include Open Space areas, in the locations as generally shown and described on Sheet 6 of the Concept Plan. Required Active Recreation areas shall be provided within the areas identified as Open Space in those areas specifically identified as "tot lot", "tennis court", multi-purpose court", and "play meadow".

The Owner shall have flexibility in the design of the subdivision plans in order to accommodate final engineering considerations.

**B. Garage Parking Restrictions** The Owner shall prepare and record against the Property a covenant which shall preclude the primary use of any garage on the Property for purposes other than for the storage of vehicles. The covenant shall be included within the documents creating the Homeowners' Association, to be established pursuant to Proffer VI. Homes used for display purposes shall be exempt from this restriction until such time as they are sold and no longer function for display purposes.

## **II. PUBLIC WATER AND SANITARY SEWER**

The Property shall be developed using public water and sewer facilities, which shall be provided to the Property at no cost to the County or to the Loudoun County Sanitation Authority (LCSA).

## **III. TRANSPORTATION**

### **A. Road Network**

All public and private roads proffered herein for access to and within the Property will be designed and constructed as the Property develops, in accordance with County of Loudoun's Facility Standards Manual ("FSM") and Land Subdivision and Development Ordinance ("LSDO") and Virginia Department of Transportation (VDOT) standards, unless otherwise modified herein.

As set forth in Paragraph III.B., below, the Owner shall dedicate, at no cost to the County, the right-of-way necessary for construction of public roads to provide the access depicted on the Concept Plan. The Owner shall also convey all related easements that may be needed outside of the right-of-way such as slope-maintenance, storm drainage and utility relocation easements. The Owner shall grant a public access easement for emergency vehicles over the private roads shown on the Concept Plan. Dedication of onsite right-of-way and conveyance of easements including the public access easement for emergency vehicles shall occur concurrently with the recordation of each record plat for any development lot abutting said right-of-way or containing such easement.

No individual lot shall have direct access to Braddock Road (Route 620) or Route 659 Relocated.

**B. Construction of Transportation Improvements**

1. Concurrent with or prior to first record subdivision plat approval for the Property, the Owner shall dedicate along the Property's Braddock Road frontage, forty-five (45) feet of right-of-way from the centerline of Braddock Road.

2. Concurrent with or prior to first record subdivision plat approval for the Property, the Owner shall construct or bond for construction a two-lane Section of Braddock Road, including turn lanes, from the eastern property line to the future Route 659 Relocated. Development on the Property will be limited to 59 units until such time as a paved two-lane section of Braddock Road is constructed, or bonded for construction, by the Owner or others, between the Braddock Road site entrance and Gum Spring Road (Route 659).

3. Prior to the issuance of the zoning permit for the 59<sup>th</sup> residential unit on the Property, the Owner shall dedicate one-hundred twenty (120) feet of right-of-way for Route 659 Relocated as shown on Sheet 6 of the Concept Plan.

4. Prior to the issuance of the zoning permit for the 59<sup>th</sup> residential unit on the Property, the Owner shall construct or bond for construction two lanes of the ultimate four-lane Route 659 Relocated as shown on Sheet 6 of the Concept Plan.

5. Prior to the issuance of the zoning permit for the 59<sup>th</sup> residential unit on the Property, the Owner shall construct, or bond for construction, a two lane section of Braddock Road from Route 659 Relocated to the western property line.

6. Concurrent with or prior to first record subdivision plat approval, for the Property, the Owner shall bond for construction, an eight (8) foot wide asphalt multi-purpose trail within the right-of-way along Braddock Road frontage of the Property from the eastern property line to the future Route 659 Relocated. Prior to the issuance of the zoning permit for the 1<sup>st</sup> residential unit, the Owner shall construct an eight (8) foot wide asphalt multi-purpose trail within the right-of-way along Braddock Road frontage of the Property from the eastern property line to the future Route 659 Relocated.

Prior to the issuance of the zoning permit for the 59<sup>th</sup> residential unit, the Owner shall construct, or bond for construction, an eight (8) foot wide asphalt multi-purpose trail within the right-of-way along Route 659 Relocated.

Also, prior to the issuance of the zoning permit for the 59<sup>th</sup> residential unit, the Owner shall construct, or bond for construction, an eight (8) foot wide asphalt multi-purpose trail within the right-of-way along Braddock Road frontage of the Property from Route 659 Relocated to the western property line.

If the 8 foot wide trail is not permitted by VDOT to be constructed within the right-of-way, then the trail shall be constructed within a fourteen (14) foot wide public access easement and maintained by the Homeowner's Association, to be established pursuant to Proffer VI., in the approximate location as shown on the Concept Plan.

7. Notwithstanding the above, dedication of right-of-way and easements shall occur upon request of the County in advance of development on the Property if others have prepared construction plans and profiles consistent with the Concept Plan and require dedication to commence construction, and provided the Owner shall not be obligated to incur costs or post bonds with the County in connection with such advance dedication.

**C. Cash Equivalent Contribution**

Unless otherwise provided in these Proffers, the Owner agrees to contribute to the County, or its designee, an amount equal to the cost of constructing the transportation improvements described above in Proffers III.B.2. and III.B.4., III.B.5. and III.B.6., in lieu of actual construction, if said improvements have been constructed or bonded for construction by others prior to bonding for construction by the Owner. For the purposes of determining the in-lieu-of contribution, construction costs shall be deemed to include all engineering, surveying, bonding, permit fees, utility relocation, and other hard costs of construction based upon County bonding estimates for said construction per the FSM. Such contribution in lieu of actual construction shall occur at the time the Owner would otherwise have been required by these Proffers to bond or construct such improvements. As determined by the County, such contribution shall either be used to reimburse the party who constructed such improvements or for regional roadway improvements in the vicinity of and for the benefit of the Property.

**D. Tri-County Parkway**

Since the segment of Relocated Route 659 located between Route 50 to the north and the Prince William County boundary to the south is incorporated as Segment D in the Environmental Impact Statement (EIS) for the Tri-County Parkway, and in an effort to facilitate the review by the County, VDOT and the Federal Highway Administration (FHA) of the alignment of Relocated Route 659 shown on the Concept Plan, which deviates from the alignment currently under study by VDOT and FHA in the Tri-County Parkway EIS, the Applicant agrees to submit the "Route 659 Relocated Alignment Study prepared by Urban Engineering & Associates, Inc., dated March 2004 and last revised February 2005, during the public hearing phase for the draft EIS. In addition, the Owner agrees to submit to the County and VDOT copies of wetlands studies, archaeological studies and Threatened and Endangered Species studies as deemed appropriate by VDOT and/or the FHA for that section of Relocated Route 659 which traverses the Property under the Applicant's proposed alignment, to support the Applicant's request to change the alignment and facilitate the preparation of the Final EIS for Segment D in the event Segment D is recommended as the preferred alignment for the Tri-County Parkway in Loudoun County by the Commonwealth Transportation Board (CTB). These studies will be submitted to the County and VDOT within one month of the date of selection of

Segment D by the CTB as the preferred alternative for the Tri-County Parkway, or before the commencement of the Final Phase EIS process, whichever occurs sooner. Submission of the above-referenced Alignment Study and supporting studies shall in no way result in suspension of the rezoning process for ZMAP 2003-0012, unless said suspension is mutually agreed upon by the Applicant and the County.

**IV. CAPITAL FACILITIES/RECREATION AND OPEN SPACE/TREE PRESERVATION**

A. **Capital Facilities Contributions** The Owner shall pay to the County a Capital Facilities Contribution, in the amount of Eleven Thousand Three Hundred Seventy Four and 68/100 Dollars (\$11,374.68) for each residential unit constructed on the Property (the "Capital Facilities Contribution"). The Capital Facilities Contribution shall be paid prior to issuance of the zoning permit for each such residential unit. The amount of the Capital Facilities Contributions shall escalate in accordance with the Consumer Price Index from the base year of 2005.

**B. Pedestrian Circulation, Recreation and Open Space Preservation**

1. **Pedestrian Circulation.** The Owner shall construct a pedestrian circulation system consisting of sidewalks and trails on the Property in substantial conformance with the circulation system illustrated on Sheet 7 of the Concept Plan. Sidewalks need not be constructed in locations where trails are constructed to provide the pedestrian circulation linkage depicted on Sheet 4 of the Concept Plan, but sidewalks shall be constructed on both sides of each public road within the Property. Except for the multi-purpose trail proffered in Paragraph III.B.6 above, sidewalks and trails shall be constructed at a width and of materials as required by the FSM and shall be constructed in phases concurrently with the development of land in areas adjacent to such sidewalks and trails. Sidewalks and trails outside the public right-of-way shall be on homeowners association owned property and shall be subject to an easement providing access to the general public in addition to residents of the Property.

2. **Trails.** The construction materials for the Trails located in a designated Wetland Area shall be determined in consultation with the Corps of Engineers and as approved by the County prior to approval of the first record plat or site plan, whichever is first in time, for the Property.

3. **Active Recreation.** Notwithstanding the general note under the "Active Recreation" tabulation on sheets 5, 6, and 8 of the Concept Plan, the Owner shall construct an active recreation area and convey the parcel containing the areas designated on the Concept Plan as "Tot Lot" and "Tennis Court" to the Homeowners' Association ("HOA") described in Proffer VI. below. The active recreation uses shall include a tot lot with a minimum of four benches and tennis court. The active recreation construction and parcel conveyance shall be completed prior to the issuance of the 59<sup>th</sup> residential zoning permit for the Property.



The Owner shall also construct an active recreation area with parking on the western side of Route 659 Relocated, as shown on the Concept Plan. The parcel shall be conveyed to the County, if acceptable to the County, and may be combined with adjacent properties to form a larger recreation area if they develop as recreation uses in the future. Alternatively, the parcel shall be conveyed to the HOA in the event the County declines acceptance of the active recreation area. The active recreation uses shall include a multi-purpose court and play meadow. The active recreation construction and parcel conveyance shall be completed prior to the issuance of the 100<sup>th</sup> residential zoning permit for the Property.

4. HOA Open Space and Trails. As adjacent areas of the Property receive record subdivision plat approval, the Owner shall develop and convey to the HOA the internal "trails" and open space areas illustrated on the Concept Plan. The declaration of covenants, conditions and restrictions recorded against the Property shall establish maintenance procedures for these common areas.

5. Open Space Preservation. Existing vegetation and trees shall be preserved within the Open Space areas identified as "Tree/Conservation Area" on the Concept Plan, provided however, that minimal disturbance may occur for construction of trails within such areas and for grading necessary for active recreation facilities, roads, surface water drainage, and the installation of utilities, including stormwater management and BMP's, for development of the Property. Selected clearing may occur for any dead, damaged, dying, or diseased vegetation. Such clearing shall be subject to consultation and agreement with the County Forester. The boundaries of the area shall be delineated on the Property site and construction plans approved for the development. During the construction phase of development a four-foot (4') high orange plastic fence attached to wooden posts shall be installed at the perimeter of the Tree/Conservation areas prior to any land disturbing or clearing activities occurring on the Property and shall be clearly visible to construction personnel. If, during construction on the Property and prior to bond release, it is determined by the County in consultation with the project arborist that any of the healthy trees located within the Tree/Conservation Area areas have been damaged during construction and will not survive, then the Owners shall remove and replace each such tree at a rate of two 2" to 3" caliper trees for each tree removed, and shall be replaced in the general location of the tree removed.

## V. EMERGENCY SERVICES

### A. Owners Contribution

At the time of the issuance of each zoning permit, the Owner shall make a one time contribution of One Hundred Twenty Dollars (\$120.00) per unit for each market rate residential dwelling unit, which shall be payable to the County for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. Such contribution shall be adjusted annually in accordance with changes to the CPI, beginning from a base year of 1988. Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies providing fire and rescue services to the Property.

Notwithstanding the foregoing, if one of the voluntary companies is no longer providing service to the Property at the time of issuance of zoning permits, this contribution obligation shall be reduced by one-half and shall be for the exclusive provision of the remaining volunteer service. At such time as the primary fire and/or rescue services to the Property are no longer provided by an incorporated volunteer fire and rescue company, the obligation to make these contributions at the time of issuance of zoning permits shall cease. The intent of these provisions is to support a volunteer fire and rescue system so long as it is a primary provider of fire and rescue services to the Property.

**B. Sprinkler Systems**

The Owner shall require all builders to provide, as an option to purchasers of single-family detached and attached residences constructed on the Property, the opportunity to purchase and have installed residential sprinkler systems for each such residence. The Owner shall install adequate infrastructure to ensure adequate water flow and pressure for said sprinkler systems. This proffer shall not require the builders to install such sprinkler systems in residences on the Property unless the purchasers of such residences choose to exercise such option prior to the start of construction and to pay costs associated with such purchase and installation. Sprinkler systems shall be installed in homes which are used for display purposes constructed on the Property.

**VI. HOMEOWNERS' ASSOCIATION**

The Owner will establish a Homeowners' Association ("HOA") prior to the first record subdivision plat approval for the Property. The HOA shall have among its duties trash removal, snow removal, and maintenance of each of the common area amenities specified herein, i.e., the private streets, stormwater management facilities, common areas, including open space, the active recreation area, trails and other play areas. The Owner shall prepare documents to create this homeowners' association and submit these documents for review and approval by the County concurrent with or prior to the approval of the first record plat. The approved documents shall be recorded prior to the first record subdivision plat approval for the Property.

**VII. EXISTING WELLS AND DRAINFIELDS**

Concurrently with the development of the Property the Owner shall abandon all existing wells and drainfields located on the Property, in accordance with County Health Department requirements.

**Braddock Crossing  
(ZMAP 2003-0012)  
Proffer Statement**

**May 5, 2005**

**Page 8**

**VIII. BINDING EFFECTS**

The Owner warrants that it owns all interests in the Property; that it has full authority to bind the Property to these conditions; that no signature from any third party is necessary for these Proffers to be binding and enforceable in accordance with their terms; that the undersigned is fully authorized to sign these Proffers on behalf of the Owner; and that these Proffers are entered into voluntarily.

Braddock Crossing  
(ZMAP 2003-0012)  
Proffer Statement

May 5, 2005

Page 9

NICHOLAS/FARKAS JOINT VENTURE

By:

Name:

John J. Nicholas Jr.

Title:

Managing Member JMN LLC,  
General PTC of John & Mary Ellen  
Nicholas Realty L.P.

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF FAIRFAX, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction, personally appeared John J. Nicholas, Jr., who acknowledged that he executed the foregoing Proffers with the full power and authority to do so.

IN WITNESS WHEREOF, I have affixed my hand and seal this 6th day of MAY, 2005.

Lynn Forkell-Fenkins  
Notary Public AKA Lynn P. Forkell

My Commission Expires: 1/31/2006

Braddock Crossing  
(ZMAP 2003-0012)  
Proffer Statement

May 5, 2005

Page 10

NICHOLAS/FARKAS JOINT VENTURE

By: Bernard Farkas  
Name: BERNARD FARKAS  
Title: PRESIDENT, BRF Corporation  
General Partner

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF FAIRFAX, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction, personally appeared Bernard Farkas, who acknowledged that she executed the foregoing Proffers with the full power and authority to do so.

IN WITNESS WHEREOF, I have affixed my hand and seal this 6th day of MAY, 2005.

Lynn Forkell-Fenkins  
Notary Public  
AKA Lynn P. Forkell

My Commission Expires: 1/31/2006

**EXHIBIT B**  
**ZONING ORDINANCE MODIFICATIONS**  
**FOR**  
**Braddock Crossing**  
**(ZMAP 2003-0012)**

April 19, 2005

**ZONING MODIFICATIONS**

Section 6-1504 of the Revised 1993 Zoning Ordinance permits modifications to the zoning and subdivision requirements if the Board finds that such *"modifications will achieve an innovative design, improve upon the existing regulations, or otherwise exceed the public purpose of the existing regulation."* As part of this rezoning request, the following modifications are incorporated for the Property.

1. **Perimeter Open Space Buffer**

**Zoning Ordinance:** Sections 3-509(C), 4-109(C), and 4-110 (I)

**Modification**

Reduce the Open Space buffer requirements between adjacent single family, agricultural and residential districts to twenty feet.

2. **Private Streets**

**Zoning Ordinance:** Sections 3-511(C) and 4-110(B)

**Modification**

Permit Private Streets to serve up to 10 single family detached units.

3. **Height limitations at edges of PD-H districts**

**Zoning Ordinance:** Section 4-109(E)

**Modification**

Modify the height limitation for single-family units along the boundaries of the site to permit building height up to 35 feet.

4. **Setbacks from Streets**

**Zoning Ordinance: Section 3-511(A)**

**Modification**

**Modification of the 25 foot setback requirement to permit a 15 foot setback for single-family detached and attached units from streets.**











Loudoun County, Virginia  
www.loudoun.gov

---

Department of Building and Development  
Zoning Administration / MSC# 60  
1 Harrison Street, S.E., P.O. Box 7000, Leesburg, VA 20177-7000  
Administration: 703-777-0397 • Fax: 703-771-5215

December 17, 2009

Marc Chadwick  
Winchester Homes, Inc.  
6905 Rockledge Drive  
Suite 800  
Bethesda, MD 20817

**Re: Request for ROW Dedication for Route 659 Relocated**

Dear Marc:

On behalf of Loudoun County, I am writing to request the dedication of right-of-way for Route 659 Relocated pursuant to the proffers of Braddock Crossing. As a follow up to this letter, you will be contacted by staff from Loudoun County Public Schools. Please ensure that Winchester Homes dedicates the requested right-of-way for Route 659 Relocated.

The Zoning Map Amendment application for Braddock Crossing, ZMAP 2003-0012, was approved by the Board of Supervisors on June 21, 2005, subject to the Proffers dated May 5, 2005 and the Letter of Clarification dated June 14, 2005. Proffer III.B.3 provides for dedication of right-of-way for Route 659 Relocated prior to the 59<sup>th</sup> residential zoning permit as stated in the proffer text:

3. *Prior to the issuance of the zoning permit for the 59th residential unit on the Property, the Owner shall dedicate one-hundred twenty (120) feet of right-of-way for Route 659 Relocated as shown on Sheet 6 of the Concept Plan.*

In addition, proffer III.B.7 provides for dedication of right-of-way upon request by the County in advance of development of the property.

7. *Notwithstanding the above, dedication of right-of-way and easements shall occur upon request of the County in advance of development on the Property if others have prepared construction plans and profiles consistent with the Concept Plan and require dedication to commence construction, and provided the Owner shall not be obligated to incur costs or post bonds with the County in connection with such advance dedication.*

Loudoun County Public Schools (LCPS) is proposing to construct a high school and an elementary school in the Dulles South area on property that is located along Goshen Road, which is west of the future alignment of Route 659 Relocated. The access for the proposed schools would be via Route 659 Relocated. Since it is likely that LCPS will construct the high school before development of Braddock Crossing reaches its triggers for dedication and construction of the right-of-way for Route 659 Relocated, LCPS is planning to construct two lanes of Route 659 Relocated in order to access the school site

At this time, pursuant to Braddock Crossing proffers III.B.3 and III.B.7, the County requests that Winchester Homes dedicate the required right-of-way for Route 659 Relocated as shown on a dedication plat that will be provided to you by Loudoun County Public Schools. As a follow up to this letter, you will receive correspondence from Sara Howard-O'Brien, Land Management Supervisor at Loudoun County Public Schools, which will contain the draft dedication plat and deed for your review. Ms. Howard-O'Brien can be reached via phone at 571-252-1156 and via email at [showard@loudoun.k12.va.us](mailto:showard@loudoun.k12.va.us).

It is noted that the developer of Braddock Crossing is required to construct, or bond for construction, two lanes of Route 659 Relocated pursuant to proffer III.B.4.

4. *Prior to the issuance of the zoning permit for the 59<sup>th</sup> residential unit on the Property, the Owner shall construct or bond for construction two lanes of the ultimate four-lane Route 659 Relocated as shown on Sheet 6 of the Concept Plan.*

In the event that Loudoun County Public Schools constructs the portion of Route 659 Relocated that Braddock Crossing is proffered to construct, Winchester Homes will owe a cash equivalent contribution prior to the issuance of the zoning permit for the 59<sup>th</sup> residential unit.

C. **Cash Equivalent Contribution**

*Unless otherwise provided in these Proffers, the Owner agrees to contribute to the County, or its designee, an amount equal to the cost of constructing the transportation improvements described above in Proffers III.B.2. and III.B.4., III.B.5. and III.B.6., in lieu of actual construction, if said improvements have been constructed or bonded for construction by others prior to bonding for construction by the Owner. For the purposes of determining the in-lieu-of contribution, construction costs shall be deemed to include all engineering, surveying, bonding, permit fees, utility relocation, and other hard costs of construction based upon County bonding estimates for said construction per the FSM. Such contribution in lieu of actual construction shall occur at the time the Owner would otherwise have been required by these Proffers to bond or construct such improvements. As determined by the County, such contribution shall either be used to reimburse the party who constructed such improvements or for regional roadway improvements in the vicinity of and for the benefit of the Property.*

According to County records, zoning permits have been issued for 10 residential units. In the event that the LCPS constructs Route 659 Relocated, a separate request for the cash equivalent contribution will be sent to Winchester Homes.

This determination applies solely to the referenced property and is not binding upon the County, the Zoning Administrator or any other official with respect to any other property. No person may rely upon this determination with respect to any property other than the referenced property.

Please be advised that any person aggrieved, or any officer, department or agency of Loudoun County affected by an order, requirement, decision or determination made by an administrative officer in the administration or enforcement of the provisions of the *Zoning Ordinance* may appeal said decision within thirty days to the Board of Supervisors in strict accordance with Section 15.2-2301 of the *Code of Virginia*. This decision is final and unappealable if not appealed within 30 days.

If you have any questions concerning this correspondence, please contact me via email ([susan.glass@loudoun.gov](mailto:susan.glass@loudoun.gov)) or you may call me at 703-777-0251.

Sincerely,



Susan Glass  
Proffer Manager

Cc via email: Dan Schardein, Zoning Administrator  
Stevens Miller, Dulles District Supervisor  
Sara Howard-O'Brien, Land Management Supervisor, LCPS  
Mike Seigfried, Assistant Director for Land Subdivision  
Nancy Berfield, Permits Proffer Manager

